Supreme Court, U.S.
FILED
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No. 99-1994

IN THE
Supreme Court of the United States

STATE OF NEVADA; WILLIAM MOLINI; RICH ELLINGTON; MICHAEL SPENCER; BILL FITZMORRIS,
Petitioners,

v.

FLOYD HICKS; TRIBAL COURT IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES; JOSEPH VAN WALRAVEN, HON.,
Respondents.

On Writ of Certiorari To The United States Court of Appeals For The Ninth Circuit

JOINT APPENDIX

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Petition For Certiorari Filed June 6, 2000
Certiorari Granted October 10, 2000

39pp

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RELEVANT DOCKET ENTRIES

I. FALLON PAIUTE-SHOSHONE TRIBAL COURT: CV-FT-91-034

1.	July 8, 1991	Hicks' Complaint
2.	July 15, 1991	Hicks' First Amended Complaint
3.	July 19, 1991	State's Motion to Quash Service of Process
4.	July 29, 1991	Hicks' Motion Opposing Motion to Quash Service of Process
5.	Aug. 8, 1991	State's Reply to Opposition to Motion to Quash Service of Process
6.	Aug. 16, 1991	Hicks' Reply to State Defendants' Reply to Opposition to Motion to Quash Service of Process
7.	Dec. 31, 1991	Hicks' Second Amended Complaint
8.	Dec. 31, 1991	Hicks' Demand for Jury Trial
9.	Jan. 13, 1992	Hicks' Supplemental Brief and Memorandum of Points and Authorities in Support of Plaintiff's Opposition to State Defendants' Motion to Quash Service of Summons
10.	Jan. 21, 1992	State's Supplemental Points and Authorities in Support of Motion to Quash Service of Process
11.	Jan. 27, 1992	Hicks' Addendum to Plaintiff's Supplemental Brief in Opposition to State Defendants' Motion to Quash Service of Process

12.	Aug. 4, 1992	Hicks' Supplemental Points and Authorities in Opposition to State Defendants' Motion to Quash Service of Process
13.	Nov. 16, 1992	Order that Parties File Supplemental Briefs on Issue of Validity of Service of Process
14.	Nov. 17, 1992	Hicks' Brief in Support of Motion Opposing State Defendants' Motion to Quash Service of Process
15.	Nov. 20, 1992	State's Second Supplement in Support of Motion to Quash Service of Process
16.	Mar. 13, 1993	State's Notice of Appeal
17.	May 5, 1993	Order Quashing Service of Process
18.	Sept. 2, 1993	State's Renewed Motion to Quash Service of Process
19.	Sept. 7, 1993	Hicks' Response to State Defendants' Renewed Motion to Quash
20.	Sept. 8, 1993	Hicks' Supplemental Response to State Defendants' Renewed Motion to Quash Service of Process
21.	Sept. 20, 1993	State's Reply to Opposition to Motion to Quash
22.	Sept. 21, 1993	Hicks' Response to State Defendants' Reply to Opposition to Motion to Quash
23.	Nov. 29, 1993	Hicks' Notice of Appeal, CV-FT-91-034 and CV-FT-92-031
24.	Feb. 2, 1994	Order Quashing Service of Process

25.	June 1, 1994	Hicks' [Third] Amended Complaint
II.	FALLON PAIUTE-SHOSHONE TRIBAL COURT: CV-FT-92-031	
1.	June 22, 1992	Hicks' Complaint
2.	July 17, 1992	State's Motion to Quash Service of Process
3.	July 27, 1992	Hicks' Motion Opposing State Defendants' Motion to Quash Service of Process
4.	Aug. 5, 1992	Hicks' Supplemental Points and Authorities in Opposition to State Defendants' Motion to Quash Service of Process
5.	Aug. 11, 1992	State's Reply to Supplemental Points and Authorities in Opposition to State Defendants' Motion to Quash
6.	May 5, 1993	Order Quashing Service of Process
7.	Aug. 26, 1993	State's Renewed Motion to Quash Service of Process
8.	Sept. 7, 1993	Hicks' Opposition to State's Renewed Motion to Quash
9.	Sept. 14, 1993	State's Reply to Opposition to Motion to Quash
10.	Sept. 20, 1993	Hicks' Response to State Defendants' Reply to Opposition to Motion to Quash
11.	Nov. 29, 1993	Hicks' Notice of Appeal, CV-FT-91-034 and CV-FT-92-031
12.	Feb. 2, 1994	Order Quashing Service of Process

13.	June 1, 1994	Hicks' Amended Complaint

III. INTER-TRIBAL APPELLATE COURT

1.	Nov. 10, 1993	Order, CV-FT-91-034 and CV-FT-92-031
2.	May 13, 1994	Order, CV-FT-91-034 and CV-FT-92-031

IV. FEDERAL DISTRICT COURT: CV-94-00351-DWH

1.	May 31, 1994	State's Complaint
2.	July 11, 1994	Answer on Behalf of Tribal Court, Fallon Paiute-Shoshone Tribes & Hon. Joseph Van Walraven
3.	July 12, 1994	Answer on Behalf of Floyd Hicks
4.	Aug. 9, 1994	Notice/Record on Review on Behalf of State Plaintiffs
5.	Jan. 13, 1995	Motion for Summary Judgment on Behalf of State Plaintiffs
6.	Jan. 12, 1995	Motion for Summary Judgment on Behalf of Tribal Defendants
7.	Jan. 13, 1995	Motion for Summary Judgment on Behalf of Floyd Hicks
8.	Feb. 11, 1995	Opposition to Plaintiff's Summary Judgment Motion, on Behalf of Tribal Defendants
9.	Feb. 13, 1995	Opposition to Defendants' Motions for Summary Judgment, on Behalf of State Plaintiffs
10.	Feb. 15, 1995	Joinder in Tribal Defendants' Opposition to Plaintiffs' Motion for Summary Judgment, on Behalf of

		Floyd Hicks
11.	Feb. 28, 1995	Reply in Support of Motion for Summary Judgment, on Behalf of State Plaintiffs
12.	Feb. 27, 1995	Reply in Support of Motion for Summary Judgment, on Behalf of Tribal Defendants
13.	Mar. 29, 1996	Order denying without prejudice parties' motions for summary judgment, and allowing thirty days within which to file supplemental briefs to renew their summary judgment motions
14.	April 30, 1996	Tribal Defendants' Supplemental Memo
15.	May 1, 1996	State's Supplemental Memo
16.	May 1, 1996	Hicks' Supplemental Memo
17.	May 8, 1996	State's Response
18.	May 10, 1996	Tribal Defendants' Reply
19.	Oct. 1, 1996	Memorandum, Decision and Order
20.	Oct. 1, 1996	Judgment
21.	Oct. 28, 1996	Notice of Appeal
22.	Mar. 31, 2000	Order Spreading Mandate
23.	May 16, 2000	Order vacating order Spreading Mandate

V. NINTH CIRCUIT COURT OF APPEAL: 96-17315

1.	Dec. 20, 1996	Docketed cause and entered appearances of counsel
2.	Dec. 20, 1996	Appellants' Civil Appeals Docketing Statement
3.	Dec. 20, 1996	Appellants' Statement of Issues on Appeal
4.	Feb, 19, 1997	Appellants' Opening Brief
5.	Mar. 31, 1997	Tribal Appellees' Brief
6.	Apr. 2, 1997	Appellee Floyd Hicks' Brief
7.	Apr. 17, 1997	Appellants' Reply Brief
8.	July 1, 1997	Tribal Appellees' Supplemental Brief
9.	July 2, 1997	Appellants' Supplemental Brief
10.	July 3, 1997	Appellee Floyd Hicks' Supplemental Brief
11.	Oct. 7, 1997	Argued and submitted
12.	Oct. 10, 1997	Order (In light of similar issues pending before the court, this appeal is withdrawn from submission until further order of the court.)
13.	Mar. 4, 1999	Order (The court withdrew this appeal from submission on 10/7/97 pending resolution of similar issues pending before the court. We continue to withhold this appeal from submission pending resolution of El Paso Nat. Gas Co. v.

		Neztsosie, 136 F.3d 610 (9th Cir.), cert. Granted, 119 S. Ct. 334 (1998).)
14.	Nov. 4, 1999	Order resubmitting this appeal
15.	Nov. 9, 1999	Opinion: Affirmed. Judgment entered.
16.	Nov. 22, 1999	Appellants' Petition for Rehearing with Suggestion for Rehearing En Banc
17.	Dec. 17, 1999	Order (The appellee is directed to file a Response to the Appellant's Petition for Rehearing En Banc.)
18.	Jan. 7, 2000	Appellee Floyd Hicks' Response Opposing Petition for En Banc Rehearing
19.	Jan. 10, 2000	Tribal Appellees' Response to Appellants' Petition for Rehearing and Suggestion for En Banc Disposition
20.	Jan. 24, 2000	Order and Amended Opinion
21.	Mar. 9, 2000	Order (The Petition for Rehearing is denied and the Petition for Rehearing En Banc is rejected.)
22.	Mar. 16, 2000	Mandate issued
23.	Mar. 29, 2000	Appellants' Motion to Recall the Mandate is granted.

[Filed June 22, 1992]

Law Offices of
Ronald E. Johnny
P.O. Box 13052
Reno, Nevada 89507

IN THE TRIBAL COURT
IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES

FLOYD HICKS,

Plaintiff,

vs.

Case No. CV-92-031

COMPLAINT

REBECCA HAROLD, ROBERT WISE, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER, TRIBAL JOHN DOES I-X, in their official Capacity, and REBECCA HAROLD, ROBERT WISE, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT OF MICHAEL C. SPENCER, TRIBAL JOHN DOES I-X, and STATE JOHN DOES I-X, Individually,

Defendants /

NOW COMES, Plaintiff, FLOYD HICKS, and for cause of action against Defendants, allege as follows:

FIRST CAUSE OF ACTION
(Trespass to Land)

1. The Plaintiff, FLOYD HICKS, is an adult Indian; an enrolled member of the Fallon Paiute-Shoshone Tribes; a citizen of both the State of Nevada and the United States; and, a resident of the Fallon Paiute-Shoshone Indian Reservation.

2. The Defendant, REBECCA HAROLD, is a non-Indian attorney, licensed to practice law in the State of Nevada, is the chief judge of the Fallon Tribal Court, an employee or official of the Fallon Paiute-Shoshone Tribes; the Defendant, ROBERT WISE, is a non-Indian, was, on the dates complained of herein, an employee or official (a Lieutenant of the Fallon Tribal Police Department) of the Fallon Paiute-Shoshone Tribes; the Defendants, TRIBAL JOHN DOES I-X, are officials and/or employees of the Fallon Paiute-Shoshone Tribes; the Defendant, MICHAEL C. SPENCER, is a non-Indian, official or employee (game warden) of the State of Nevada, Department of Wildlife; the Defendant, CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER, may or may not be an Indian and may or may not be a resident of the Fallon Indian Reservation; the Defendants, STATE JOHN DOES I-X, are employees or officials of the State of Nevada.

3. On or about August 30, 1990, the Defendant, MICHAEL C. SPENCER, aka "MIKE SPENCER," executed a three page Affidavit in the matter captioned In The Matter Of The Application For A Search Warrant, Case No. 90-02065 (Justice Court, New River Township, County of Churchill, State of Nevada), witnessed by LENA McQUEEN, Notary Public, State of Nevada. See Affidavit, marked Plaintiff's Exhibit #1.

4. The Affidavit, identified in paragraph #3, above, advises that MIKE SPENCER has been investigating a possible crime of possessing or killing a big horn sheep, a gross misdemeanor, in violation of N.R.S. 501.376, involving FLOYD HICKS, the Plaintiff. See Affidavit, page 1, lines 19-22.

5. The Affidavit, identified in paragraph #3, above, advises that the information supplied by the confidential informant to the Defendant, MIKE SPENCER, was more than two years old. Id, page 1, lines 27-28; page 2, liens 1-2.

6. The Affidavit, identified in paragraph #3, above, demonstrates that the Defendant, MIKE SPENCER, waited an unreasonable time after the observations of his CONFIDENTIAL INFORMANT before seeking the state search warrant. Id, page 1, line 27.

7. On August 30, 1990, Justice of the Peace, MARILYN CRAIG, issued a document titled "Search Warrant," which was not, in fact, a search warrant (see Plaintiff's Exhibit #2), to: "ANY PEACE OFFICER IN THE COUNTY OF CHURCHILL, STATE OF NEVADA." advising:

> "YOU ARE HEREBY COMMANDED, SUBJECT TO OBTAINING APPROVAL FROM THE FALLON TRIBAL COURT IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES, to search the said premises located at 7755 Stillwater Road, Fallon, Churchill County, Nevada, for any big horn sheep heads or evidence of same....
>
> "This Court has no jurisdiction on the Fallon Paiute-Shoshone Indian Reservation and, before any search is conducted in furtherance hereof, an approval authorizing same must be obtained from the Fallon Tribal Court in and for the Fallon Paiute-Shoshone Tribes of Fallon, Churchill County, Nevada."

Plaintiff's Exhibit #2 at 1-2.

8. On or about August 30, 1990, the Defendant, REBECCA HAROLD, with malicious intent or bad faith, under color of and in violation of the laws of the Fallon Paiute-Shoshone Tribes (hereinafter "tribal law"), authorized the service of the New River Township document titled "Search Warrant," identified in paragraph #9, above, allowing Tribal Defendant WISE and State Defendant SPENCER to enter the exterior boundaries of, and upon, the Plaintiff's allotted Indian lands and search for big horn sheep heads or other evidence of a violation of a gross misdemeanor under the laws of the State of Nevada.

9. On or about August 30, 1990, under color of and in violation of tribal law, the Tribal Defendants, REBECCA HAROLD, ROBERT WISE and Tribal JOHN DOES I thru X, with malicious intent or bad faith, conspired to and did illegally enter the allotted Indian lands of the Plaintiff, FLOYD HICKS, and committed Trespass and Land against the Plaintiff.

10. On or about August 30, 1990, under color of the laws of the State of Nevada and in violation of tribal law, the State Defendants, MICHAEL C. SPENCER and State JOHN DOES I thru X, conspired to and did illegally enter the allotted Indian lands of the Plaintiff, FLOYD HICKS, and committed Trespass to Land against the Plaintiff.

12. The acts and omissions of the Defendant, REBECCA HAROLD, ROBERT WISE, Tribal JOHN DOE I thru X, MICHAEL C. SPENCER, and State JOHN DOES I thru X, in their official and individual capacity, constitute the tort of Trespass to Land against the Plaintiff, FLOYD HICKS.

SECOND CAUSE OF ACTION
(Trespass to Chattels)

13. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action of this Complaint.

14. On or about August 30, 1990, the Defendant, REBECCA HAROLD, with malicious intent or bad faith, under color of and in violation of tribal law, authorized the Defendants, ROBERT WISE and MIKE SPENCER, to take from the Plaintiff's allotted Indian lands an aged big horn sheep head.

15. On or about August 30, 1990, the State Defendants, MIKE SPENCER and State JOHN DOES I thru X, under color of state law and in violation of tribal law, conspired to and did take from the Plaintiff's allotted Indian lands an aged big horn sheep head and kept same for approximately

90 days damaging same by detaching, and failing to return, an ear of the big horn sheep head.

16. On or about August 30, 1990, Tribal Defendants, ROBERT WISE and Tribal JOHN DOES I thru X, under color of and in violation of tribal law, with malicious intent or bad faith, conspired to and did take from the Plaintiff's allotted Indian lands an aged big horn sheep head.

17. The acts and omissions of the Defendants, REBECCA HAROLD, ROBERT WISE, Tribal JOHN DOES I thru X, MIKE SPENCER, CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER, and State JOHN DOES I thru X, in their official and individual capacity, constitute the tort of Trespass to Chattels against the Plaintiff, FLOYD HICKS.

THIRD CAUSE OF ACTION
(Abuse of Process)

18. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action, and Paragraph 13 through 17 of the Second Cause of Action, of this Complaint.

19. Since 1986, the Fallon Paiute-Shoshone Tribes have had a specific, codified, policy and process to allow agents of a state government to "discover property which will substantially aid the requesting government and which is stolen, or illegal to possess or is the instrumentality, evidence, or fruit of a crime," which requires: (1) that an agreement between the state and Fallon Tribes have been executed, (2) that a felony investigation be in process, (3) that a tribal "judge shall issue a Tribal search warrant to be executed and returned as are other Tribal search warrants," and (4) that a hearing be held whereby the person from whom property may have been seized could have due process of law.

20. On or about August 30, 1990, Tribal Defendants, REBECCA HAROLD, ROBERT WISE and Tribal JOHN

DOES I thru X, with malicious intent or bad faith, under color of and in violation of tribal law, conspired to and did abuse the tribal search warrant process as to the Plaintiff, FLOYD HICKS.

21. On or about August 30, 1990, State Defendants, MICHAEL C. SPENCER and State JOHN DOES I thru X, under color of state law and in violation of tribal law, conspired to and did abuse the tribal search warrant process as to the Plaintiff, FLOYD HICKS.

22. The actions and omissions of the Defendants, REBECCA HAROLD, ROBERT WISE, Tribal JOHN DOES I thru X, MICHAEL C. SPENCER, CONFIDENTIAL INFORMATN of MICHAEL C. SPENCER, and State JOHN DOES I thru X, in their official and individual capacity, constitute the tort of abuse of process against the Plaintiff, FLOYD HICKS.

FOURTH CAUSE OF ACTION
(Violation of Civil Rights – Denial of Equal Protection)

23. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action, Paragraph 13 through 17 of the Second Cause of Action, and Paragraph 18 through 22 of the Third Cause of Action, of this Complaint.

24. The Indian Civil Rights Act of 1968 codified at, title 25, United States Code § 1302, and tribal law, is mandated upon and applicable to the Tribal Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I thru X.

25. By their actions, under color of and in violation of tribal law, against the Plaintiff, FLOYD HICKS, and his property on the Fallon Paiute-Shoshone Indian Reservation, with malicious intent or bad faith, the Tribal Defendants have violated the Plaintiff's civil rights of equal protection

as guaranteed by tribal law and the Indian Civil Rights Act of 1968.

26. The 14th Amendment to the United States Constitution is mandated upon and applicable to State Defendants, MICHAEL C. SPENCER and State JOHN DOES I thru X, and requires that states, their officials, and employees afford equal protection of law to the Plaintiff, FLOYD HICKS. See U.S. Const., art. XIV, § 1.

27. The 14th Amendment to the United States Constitution is enforceable in this court through title 42, United States Code, § 1983 and other federal laws.

28. By their actions, under color of state law and in violation of tribal law, against the Plaintiff, FLOYD HICKS, and his property on the Fallon Paiute-Shoshone Indian Reservation, the State Defendants have violated the Plaintiff's civil right of equal protection under the Indian Civil Rights Act of 1968 and the 14th Amendment to the United States Constitution

FIFTH CUASE OF ACTION
(Violation of Civil Rights – Denial of Due Process)

29. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action, Paragraph 13 through 17 of the Second Cause of Action, and Paragraph 18 through 22 of the Third Cause of Action, and Paragraph 23 through 28 of the Fourth Cause of Action, of this Complaint.

30. The Indian Civil Rights Act of 1968 codified at, title 25, United States Code § 1302, and tribal law, is mandated upon and applicable to the Tribal Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I thru X.

31. By their actions, under color of and in violation of tribal law, against the Plaintiff, FLOYD HICKS, and his

property on the Fallon Paiute-Shoshone Indian Reservation, with malicious intent or bad faith, the Tribal Defendants have violated the Plaintiff's civil rights to due process by denying him the seizures hearing guaranteed by tribal law and not meeting the due process mandate of the Indian Civil Rights Act of 1968.

32. The 14th Amendment to the United States Constitution is mandated upon and applicable to State Defendants, MICHAEL C. SPENCER and State JOHN DOES I thru X, and requires that states, their officials, and employees afford due process of law. See U.S. Const., art. XIV, § 1.

33. The 14th Amendment to the United States Constitution is enforceable in this court through title 42, United States Code, § 1983 and other federal laws.

34. By their actions, under color of state law and in violation of tribal law, against the Plaintiff, FLOYD HICKS, and his property on the Fallon Paiute-Shoshone Indian Reservation, the State Defendants have violated the Plaintiff's civil right to due process afforded by the Indian Civil Rights Act of 1968 and the 14th Amendment of the United States Constitution.

SIXTH CAUSE OF ACTION
(Denial of Civil Rights – Unreasonable Search and Seizure)

35. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action, Paragraph 13 through 17 of the Second Cause of Action, and Paragraph 18 through 22 of the Third Cause of Action, and Paragraph 23 through 28 of the Fourth Cause of Action, Paragraph 29 through 34 of the Fifth Cause of Action, of this Complaint.

36. The Indian Civil Rights Act of 1968 codified at, title 25, United States Code § 1302, and tribal law, is mandated upon and applicable to the Tribal Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I thru X.

37. By their actions, under color of and in violation of tribal law, against the Plaintiff, FLOYD HICKS, and his property on the Fallon Paiute-Shoshone Indian Reservation, with malicious intent or bad faith, the Tribal Defendants have denied the Plaintiff's civil right to be protected against unreasonable searches and seizures as guaranteed by tribal law the Indian Civil Rights Act of 1968.

38. The 5th Amendment to the United States Constitution prohibition against unlawful search and seizure is mandated upon and applicable to State Defendants, MICHAEL C. SPENCER and State JOHN DOES I thru X through the 14th Amendment of the United States Constitution.

39. The 5th Amendment to the United States Constitution is enforceable in this court through the 14th Amendment to the United States Constitution, title 42, United States Code, § 1983 and other federal laws.

40. By their actions, under color of state law and in violation of tribal law, against the Plaintiff, FLOYD HICKS, and his property on the Fallon Paiute-Shoshone Indian Reservation, the State Defendants have denied the Plaintiff's civil rights by denying him the protection against unreasonable search and seizure as guaranteed by the Indian Civil Rights Act of 1968 and the 5th and 14th Amendments to the United States Constitution.

SEVENTH CAUSE OF ACTION
(Wrongful Civil Proceedings)

41. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action, Paragraph 13 through 17 of the Second Cause of Action, and Paragraph 18 through 22 of the Third Cause of Action, and Paragraph 23 through 28 of the Fourth Cause of Action, Paragraph 29 through 34 of the Fifth Cause of Action, Paragraph 35 through 40 of the Sixth Cause of Action, of this Complaint.

42. The Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I thru X, with malicious intent or bad faith, either initiated or participated in a quasi-civil process which caused an interference with the property of the Plaintiff, FLOYD HICKS, and cause him to expend time, energy, and money in preventing the search of his premises under an invalid warrant.

43. The Defendants, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER, and State JOHN DOES I thru X, either initiated or participated in a quasi-civil process which caused an interference with the property of the Plaintiff, FLOYD HICKS, and cause him to expend time, energy, and money in preventing the search of his premises under an invalid warrant.

44. The property seized by order of the Defendant, REBECCA HAROLD, and seized by the Defendants, ROBERT WISE, Tribal JOHN DOES I thru X, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER, and State JOHN DOES I thru X, proved to be an aged big horn sheep head and not the freshly killed big horn sheep head reported by the CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER.

45. The actions of the Defendants, REBECCA HAROLD, ROBERT WISE, Tribal JOHN DOES I thru X, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT of MICHAEL C. SPENCER, and State JOHN DOES I thru X, in their official and individual capacity, constitute the tort of wrongful civil proceedings against the Plaintiff, FLOYD HICKS.

EIGHTH CAUSE OF ACTION
(Writ of Injunction for Declaratory Relief)

46. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph

1 through 12 of the First Cause of Action, Paragraph 13 through 17 of the Second Cause of Action, and Paragraph 18 through 22 of the Third Cause of Action, and Paragraph 23 through 28 of the Fourth Cause of Action, Paragraph 29 through 34 of the Fifth Cause of Action, Paragraph 35 through 40 of the Sixth Cause of Action, Paragraph 41 through 45 of the Seventh Cause of Action, of this Complaint.

47. Tribal law waives tribal immunity and tribal official and employee immunity for writs in the nature of injunction for declaratory relief for review and enforcement or compliance with the Fallon Tribes' procedures. See Title 1, Fallon Tribes Law & Order Code, § 1-10-030.

48. The actions of the Tribal Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I through X, violate the Fallon Tribes' procedures as to the issuance of tribal search warrants, the handling of evidence and other property sought by a state governmental agency, the mandated seizure hearing, etc. See generally, Title 4, Fallon Tribes Law & Order Code.

49. The court should issue a writ of injunction for declaratory relief advising that the order of the Honorable REBECCA HAROLD, authorizing service of the document prepared by Justice of the Peace MARILYN CRAIG, and the actions of the other Tribal-Defendants, ROBERT WISE and Tribal JOHN DOES I thru X, are illegal because they violate tribal law and the Indian Civil Rights Act of 1968.

NINTH CAUSE OF ACTION
(Writ of Injunction for Equitable Relief)

50. Plaintiff realleges and incorporates herein by this reference, each and every allegation contained in Paragraph 1 through 12 of the First Cause of Action, Paragraph 13 through 17 of the Second Cause of Action, and Paragraph 18 through 22 of the Third Cause of Action, and Paragraph 23 through 28 of the Fourth Cause of Action, Paragraph 29

through 34 of the Fifth Cause of Action, Paragraph 35 through 40 of the Sixth Cause of Action, Paragraph 41 through 45 of the Seventh Cause of Action, Paragraph 46 through 49 of the Eight Cause of Action, of this Complaint.

51. Tribal law waives tribal immunity and tribal official and employee immunity for writs in the nature of injunction for declaratory relief for review and enforcement or compliance with the Fallon Tribes' procedures. See Title 1, Fallon Tribes Law & Order code, § 1-10-030.

52. The actions of the Tribal Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I thru X, violate the Fallon Tribes' procedures as to the issuance of tribal search warrants, the handling of evidence and other property sought by a state governmental agency, the mandated hearings, etc. See generally, Title 4, Fallon Tribes Law & Order Code.

53. The actions of the Tribal Defendants, REBECCA HAROLD, ROBERT WISE, and Tribal JOHN DOES I thru X, violate the procedural dictates of the Indian Civil Rights Act before a search may be authorized by tribal officials and employees. See U.S.C. § 1302.

54. The court should issue a writ of injunction for equitable relief advising that the order of the Honorable REBECCA HAROLD, authorizing service of the document prepared by Justice of the Peace MARILYN CRAIG on the Fallon Indian reservation, and the actions of the other Tribal Defendants, ROBERT WISE and Tribal JOHN DOES I thru X, are illegal because they violate tribal law and the Indian Civil Rights Act of 1968.

WHEREFORE THE PLAINTIFF prays the court:

Award the Plaintiff, FLOYD HICKS:

a. $500.00 in damages for Trespass to Land against each Defendant;

b. $1000.00 in damages for Trespass to Chattels against each Defendant;

c. $1500.00 in damages for Abuse of Process against each Defendant;

d. $700.00 in damages for denying Equal Protection against each Defendant;

e. $700.00 in damages for denying Due Process against each Defendant;

f. $700.00 in damages for unreasonable search and seizure against each Defendant;

g. $700.00 in damages for wrongful civil proceedings against each Defendant;

55. Issue the Writ of Injunction for Declaratory Relief as set forth above

56. Issue the Writ of Injunction for Equitable Relief as set forth above.

57. Grant any other relief or damages which the Plaintiff is entitled.

Respectfully submitted,
Law Office of
RONALD E. JOHNNY
/s/ Ronald E. Johnny

RONALD E. JOHNNY
Legal Counsel for Plaintiff
P. O. Box 13052
Reno, Nevada 89507

CERTIFICATION

I, FLOYD HICKS, hereby state and affirm, subject to the laws of the Fallon Paiute-Shoshone Tribes, including the tribal law against perjury, that I have read the above

Complaint and that it is true to the best of my knowledge, belief and information.

/s/ Floyd Hicks
FLOYD HICKS

Witnessed by:
/s/ unreadable
COURT CLERK

[Filed Nov. 10, 1993]

IN THE INTERTRIBAL COURT OF APPEALS OF NEVADA
98 COLONY ROAD, RENO, NEVADA 89502

FLOYD HICKS

Plaintiff/Appellee,

vs.

ORDER

Cases CV 91-034
CV 92-031

STATE OF NEVADA, WILLIAM MOLINI, MICHAEL C. SPENCER, RICH ELLINGTON, AND BILL FITZMORRIS, individually and in their official capacity,

Defendant/Appellants./

BEFORE: BEYER, VAN WINKLE AND MCDADE

This case is before this Court following an Appeal from an Order issued by Fallon's Tribal Judge, Joseph J. Van Walraven. Judge Van Walraven issued an Order Quashing Service of Process as to Specially Appearing Defendant's on May 15, 1993. In that Order Judge Van Walraven ruled:

1. "That the doctrine of sovereign or qualified immunity does not prevent the Fallon Tribal Court from exerting personal jurisdiction over the State Defendant's; and

2. That the Court is without jurisdiction over the persons of the State Defendant's for the reason that the Business Council of the Fallon Paiute Shoshone Tribes has enacted no procedure for service outside of its territorial jurisdiction by Certified Mail."

We believe that the basis for Judge Van Walraven's ruling is undoubtedly predicated on Title 1, chapter 30,

section 40 of the Fallon Law and Order Code which reads as follows:

> "The Nevada Rules of Civil Procedure and the general Civil Laws of the State of Nevada shall be used as a guide in cases in the Tribal Court involving claims between parties but not so as to impede the administration of justice nor contravene the application of any Tribal law or custom or federal law nor to produce any absurd result nor impose any regulatory scheme or policy not contemplated by the Tribe nor to interfere with the Tribes' laws or policies on any subject regulated by the Tribes."

In review of the Nevada Rules of Civil Procedure, Rules 1 thru 5, we note that there is no provision for Service by Certified Mail. Even to the extent that Judge Van Walraven felt compelled to utilize the provisions of NRS as a guide, clearly there was no authority for the type of service utilized by the Plaintiff/Appellee.

We note also that Judge Van Walraven issued an Order on May 3rd, 1993 applying the Nevada Rules of Civil Procedure as of that date "for the remainder of this case". Most assuredly the parties were put on notice as to the Court's intent given the provisions of 1-30-40 of Fallon's Tribal Law and Order Code.

As such, we affirm Judge Van Walraven's Order Quashing Service.

DATED this 10th day of November, 1993.

JUDGES:

/s/_____
Judge, Tom M. Beyer

/s/_____
Judge, Van Winkle

/s/_____
Judge, Clarence McDade

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[Filed June 1, 1994]

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FOR PLAINTIFF, FLOYD HICKS

IN THE TRIBAL COURT
IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES

FLOYD HICKS,

Plaintiff,

vs.

REBECCA HAROLD, ROBERT WISE, TRIBAL JOHN DOES I-X, STATE OF NEVADA, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT OF MICHAEL C. SPENCER, STATE JOHN DOES I-X, IN THEIR OFFICIAL CAPACITY, AND REBECCA HAROLD, ROBERT WISE, TRIBAL JOHN DOES I-X, MICHAEL C. SPENCER, CONFIDENTIAL INFORMANT OF MICHAEL C. SPENCER, STATE JOHN DOES I-X, INDIVIDUALLY,

Defendants. /

Case No. CV-FT-92-031

AMENDED COMPLAINT

NOW COMES the Plaintiff, Floyd Hicks, through leagl counsel, Ronald E. Johny, for causes of action against Defendants, alleges as follows:

FIRST CAUSE OF ACTION
(Trespass to Land)

1. The plaintiff, Floyd Hicks, is an adult Native American; an enrolled member of the Fallon Paiute-Shoshone Tribes; a citizen of both the state of Nevada and the United States; and, a resident of the Fallon Paiute-Shoshone Indian Reservation.

2. The defendant, Rebecca Harold, is a non-Indian, Nevada state-licensed attorney, is the chief judge of the Fallon Tribal Court, and employee or official of the Fallon Paiute-Shoshone Tribes; the defendant, Robert Wise, is a non-Indian, was, on the dates complained of herein, an employee or official (a Lieutenant of the Fallon Tribal Police Department) of the Fallon Paiute-Shoshone Tribes; the defendants, Tribal John Does I-X, are officials and/or employees of the Fallon Paiute-Shoshone Tribes who assisted in or otherwise made the decision complained of herein; the defendant, state of Nevada, is a governmental entity; the defendant, Michael C. Spencer, is a non-Indian, official or employee (game warden) of the state of Nevada, Department of Wildlife; the defendant Confidential Informant of Michael C. Spencer, may or may not be a Native American and enrolled member of the Fallon Paiute-Shoshone Tribes; the defendants, State John Does I-X, are officials or employees of the state of Nevada who assisted in or otherwise made the decision complained of herein.

3. All defendants are being sued in their individual and official capacities.

4. On or about August 30, 1990, the defendant, Michael C. Spencer, also known as "Mike Spencer," executed a three page Affidavit in the matter captioned In The Matter Of The Application For A Search Warrant, Case No. 90-02065

(Justice Court, New River Township, County of Churchill, State of Nevada), witness by Lena McQueen, Notary Public, State of Nevada.

5. The Affidavit, identified-above, advises that Mike Spencer is investigating a possible crime, the possessing of killing of a big horn sheep of the California subspecies, a gross misdemeanor, in violation of N.R.S. 501.376, involving the plaintiff, Floyd Hicks.

6. The Affidavit, identified-above, advises that the information supplied by defendant, Confidential Informant of Michael C. Spencer, is more than two-years old.

7. On August 30, 1990, Justice of the Peace, Marilyn Craig, issued a document titled "Search Warrant," which advised any police officer in the County of Churchill, State of Nevada, that the Justice Court lacked jurisdiction to issue a search warrant against the plaintiff, Floyd Hicks.

8. On August 30, 1990, Justice of the Peace, Marilyn Craig, issued a document titled "Search Warrant," which was not a search warrant.

9. On or about August 30, 1990, the defendant, Michael C. Spencer, and the state of Nevada, sought legal counsel from the Churchill County District Attorney with regard to his authority to search and seize items of evidence on the Fallon Indian Reservation.

10. On or about August 30, 1990, the defendant, Rebecca Harold, without lawful authority, against specific tribal laws, and under color of law, authorized the defendant, Michael C. Spencer, and state of Nevada, to enter the allotted Indian lands of the plaintiff, Floyd Hicks, and to search and seize the plaintiff's personal property.

11. On or about August 30, 1990, the defendant, Michael C. Spencer, and state of Nevada, without lawful authority or permission of the plaintiff, Floyd Hicks, and under color of law, entered the allotted Indian land of the plaintiff.

SECOND CAUSE OF ACTION
(Trespass to Chattels)

12. The plaintiff incorporates paragraphs number 1 through 11 here.

13. On or about August 30, 1990, the defendant, Michael C. Spencer, and state of Nevada, without lawful authority, and under color of law, searched the allotted Indian lands of the plaintiff, Floyd Hicks.

14. On or about August 30, 1990, the defendant, Michael C. Spencer, and state of Nevada, while on the plaintiff's allotted Indian lands, without lawful authority, seized, under color of law, the personal property of the plaintiff, to-wit: a 45 year old, mounted, head of a big horn sheep of the Rocky Mountain subspecies.

15. The plaintiff's 45 year old, mounted, head of a big horn sheep of the Rocky Mountain subspecies, was of great personal value to the plaintiff and had great financial value.

16. On or about August 30, 1990, the defendant, Michael C. Spencer, and state of Nevada, without lawful authority, and under color of law, removed the personal property of the plaintiff, to-wit: a 45 year old, mounted, head of a big horn sheep of the Rocky Mountain subspecies, from the allotted Indian lands of the plaintiff and the Fallon Indian Reservation.

THIRD CAUSE OF ACTION
(Violation of Civil Rights Under Federal Law)

17. The plaintiff incorporates paragraphs number 1 through 16 here.

18. The defendant, Michael C. Spencer, and the state of Nevada, violated the plaintiff's civil rights under federal law.

FOURTH CAUSE OF ACTION
(Violation of Civil Rights Under Tribal Law)

19. The plaintiff incorporates paragraphs number 1 through 18 here.

20. The defendant, Michael C. Spencer, and the state of Nevada, violated the plaintiff's civil rights under tribal custom, tradition and common law which is reflected also in the Law & Order Code of the Fallon Paiute-Shoshone Tribes (1986).

WHEREFORE THE PLAINTIFF PRAYS THE COURT:

1. For the First Cause Of Action, Trespass to Land, award the plaintiff $25,000.

2. For the Second Cause of Action, Trespass to Chattels, award the plaintiff $25,000.

3. For the Third Cause Of Action, Denial of Civil Rights Under Federal Law, award the plaintiff $250,000.

4. For the Fourth Cause Of Action, Denial of Civil Rights Under Tribal Law, award the plaintiff $250,000.

5. For any additional relief to which the plaintiff may be entitled, award the plaintiff a reasonable sum.

6. Pay the plaintiff's attorneys fees and costs of suit.

Respectfully submitted June 1, 1994.
Law Offices
RONALD E. JOHNNY
/s/_____
Ronald E. Johnny

[Filed Oct. 12, 1995]

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Attorneys for Defendant
FLOYD HICKS

UNITED STATES DISTRICT COURT
DISTRICT OF NEVDA

STATE OF NEVADA, WILLIAM WILLIAM MOLINI, Administrator for NEVADA DIVISION OF WILDLIFE and MICHAEL C. SPENCER, RICH ELLINGTON, and BILL FITZMORRIS, as Nevada State Wildlife Wardens and individually,	CASE NO. CV-N-94-351-DWH NOTICE OF TRIBAL COURT ACTION

Plaintiffs,

v.

FLOYD HICKS, TRIBAL COURT IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES, HONORABLE JOSEPH VAN WALRAVEN,

Defendants. /

COMES NOW FLOYD HICKS, defendant, by and through his counsel of record, N. Patrick Flanagan, III of Beckley, Singleton, Jemison & List, and hereby gives notice that the Tribal Court for the Fallon Paiute-Shoshone Tribe has granted Floyd Hick's unopposed Motion to Lift the Stay Order and granted Floyd Hick's Motion to Dismiss the State

of Nevada and all state defendants named in their official capacity.

This notice is given pursuant to Order of this Court and based upon the exhibits appended hereto.

DATED this 12th day of October, 1995.

BECKLEY, SINGLETON, JEMISON & LIST

/s/

N. PATRICK FLANAGAN
100 West Liberty, Suite 700
Reno, Nevada 89501
ATTORNEYS FOR DEFENDANT
FLOYD HICKS

EXHIBIT A

IN THE TRIBAL COURT
IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES

FLOYD HICKS, Case No. CV-FT-92-031

Plaintiff,

vs.

REBECCA HAROLD; ROBERT WISE; MICHAEL C. SPENCER; CONFIDENTIAL INFORMATN OF MICHAEL C. SPENCER; TRIBAL JOHN DOES i-X; in their official capacity; and REBECCA HAROLD, ROBERT WISE, MICHAEL C. SPENCER; CONFIDENTIAL INFORMANT OF MICHAEL C. SPENCER, TRIBAL JOHN DOES I-X and State JOHN DOES I-X, individually,

Defendants. /

ORDER GRANTING PLAINTIFF'S MOTION TO LIFT STAY ORDER IN T HIS CASE AND GRANTING PLAINTIFF'S MOTION TO DROP ALL STATE DEFENDANTS NAMED IN THEIR OFFICIAL CAPACITIES

Plaintiff Floyd Hicks has moved this Court for an Order lifting or modifying the Stay Order in this case entered on June 16, 1994, such that the Court may consider a Motion by Plaintiff to drop certain named defendants as parties to this action.

After considering the Motions and the Memorandum of Points and Authorities submitted in support thereof, and no

opposition having been made, the Court finds that good cause exists for the granting of these motions.

Accordingly, IT IS HEREBY ORDERED that the Stay Order entered June 16, 1994 in this case is hereby lifted/modified for the purpose of considering Plaintiff's Motion to drop certain named defendants.

IT IS FURTHER ORDERED that Nevada State Game Warden Michael C. Spencer in his official capacity; the Confidential Informant of Game Warden Michael C. Spencer in his or her official capacity; and, State John Does I thru X in their official capacities are hereby dropped as parties defendants to this action.

DATED this 10th day of October, 1995.

/s/ Joseph Van Walraven
FALLON TRIBAL COURT JUDGE

EXHIBIT B

IN THE TRIBAL COURT
IN AND FOR THE FALLON PAIUTE-SHOSHONE TRIBES

FLOYD HICKS, Case No. CV-FT-91-034

Plaintiff,

vs.

TRIBAL JUDGE REBECCA HAROLD; STATE OF NEVADA; DIRECTOR, NEVADA DEPARTMENT OF WILDLIFE, WILLIAM MOLINI, NEVADA STATE GAME WARDENS MICHAEL C. SPENCER; RICK ELLINGTON, AND BILL FITZMORRIS, AND THEIR CONFIDENTIAL INFORMANT; TRIBAL POLICE OFFICERS BOB WISE AND BOB MINTON; AND JOHN DOES I THRU X, AND REBECCA HAROLD, WILLIAM MOLINI, MICHAEL C. SPENCER, RICK ELLINGTON, BILL FITZMORRIS, CONFIDENTIAL INFORMANT, BOB WISE, BOB MINTON, AND JOHN DOES I THRU X, INDIVIDUALLY,

Defendants. /

ORDER GRANTING PLAINTIFF'S MOTION TO LIFT STAY ORDER IN THIS CASE AND GRANTING PLAINTIFF'S MOTION TO DROP THE STATE OF NEVADA AND ALL STATE DEFENDANTS NAMED IN THEIR OFFICIAL CAPACITIES

Plaintiff Floyd Hicks has moved this Court for an Order lifting or modifying the Stay Order in this case entered on June 16, 1994, such that the Court may consider a Motion

by Plaintiff to drop certain named defendants as parties to this action.

After considering the Motions and the Memorandum of Points and Authorities submitted in support thereof, and no opposition having been made, the Court finds that good cause exists for the granting of these motions.

Accordingly, IT IS HEREBY ORDERED that the Stay Order entered June 16, 1994 in t his case is hereby lifted/modified for the purpose of considering Plaintiff's Motion to drop certain named defendants.

IT IS FURTHER ORDERED that the State of Nevada; William Molini, the Director of the Nevada Department of Wildlife in his official capacity; Nevada State Game Warden Michael C. Spencer in his official capacity; Nevada State Game Warden Rick Ellington in his official capacity; Nevada State Game Warden Bill Fitzmorris in his official capacity; the Game Wardens' Confidential Informant in his or her official capacity; and, State John Does I thru X in their official capacities are hereby dropped as parties defendants to this action.

DATED this 10th day of October, 1995.

/s/ Joseph Van Walraven
FALLON TRIBAL COURT JUDGE

IN THE SUPREME COURT OF THE UNITED STATES

[CAPTION OMITTED IN PRINTING]

Order Granting Petition for a Writ of Certiorari entered on October 10, 2000.